From: Paul Hoehne
To: Microsoft ATR
Date: 1/23/02 2:11pm
Subject: Reasons to reject Microsoft settlement

There are many technical reasons why the Microsoft settlement should be rejected and are detailed very well by in http://www.kegel.com/remedy/letter.html. My reasons for objection are based on the prior behavior of the defendant.

Over the years Microsoft has shown that they intend to dominate the operating systems space on both the client and the server. They have shown from their prior behavior that will:

Redefine terms to avoid compliance. If something doesn't fall under a strict interpretation of the terms of the settlement, then Microsoft will deem itself not bound to the settlement on that issue.
Add non-standard extensions to standard protocols. If the industry-standard protocol is extended with proprietary, secret additions, then it no longer operates with non-Microsoft products.
Use highly restrictive licensing. If something violates the license of a software vendor or service provider then non-Microsoft products can be excluded.
Use legal channels as a delaying tactic. In an industry where dominance can be established in months, they can tie up an issue for years.
Install intentionally incompatible software. Use a "free" addition to the operating system that will disable, alter, or break a feature used by a competing product.
Vapor-ware to prevent competing products from gaining market share. Microsoft has often promised software in order to prevent customers from adopting software from competitors, and delivered late or not at all.
Even re-engineer their products. They can make programs that are not traditionally part of operating systems an integral part of Windows, thereby tying products to the OS.

All this they can do to avoid having to comply with conduct remedies. I have no faith that the Department of Justice will be able to enforce the remedies stipulated in the settlement.

It is sad to see the DOJ adopt a settlement that will be meaningless because it is unenforceable. It would be sad to see Microsoft continue to bully vendors, constrain developers, and use their dominant position to drive competing products from the market. However, more than just 'sad', this situation is dangerous. In an age where Microsoft products are constantly being battered by security concerns, it would seem that healthy competition in the Operating Systems space would be vital to ensure that if one OS is highly vulnerable consumers have other choices available.

Finally, when Microsoft avoids compliance, the credibility of the DOJ will

suffer. Any law functions if the probability of meaningful enforcement is high. The defendant will avoid compliance and their behavior will diminish the effectiveness of anti-trust laws in general.

Please do more to ensure that the US software industry is not subject to the whims of the defendant. Please re-work to the settlement to provide some real effective relief against Microsoft. Please ensure that the software industry in the US is open for innovation and not dominated by a single player who can use numerous tactics to drive competitors from the marketplace.

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